App. F. IX-4

1933.

File No. 34. 33

Previous References (Law (10)

Serial Nos. 1 & 2.

Later References **PRESERVED**

(Revenue)

GENERAL AND REVENUE SECRETARIAT

Serial Nos. Two.

Part B for Sept 1933

SUBJECT.

Lease of S. No. 457/2 Office to Sri Lakeswaraswami Temple at Mandya by one Subbajois.

2) To Dy. Dirg: Comr

No. P1261 of 13.9.33

Forwarding copy of the legal opinion in the matter.

D. Revenue Secy
7.10.33

505

Serial No.

From,

The Mg. Comm.

no. M 90 /31-32 dated 18th Aug 1933. Soliciting legal opinion in the matter of leasing S.no. 457/2 gifted to Sri Sakkeswaraswami temple - Mandya.

1) Facts of the Case are narrated in the R.U.D. Copies of gift deeds of Neelakanta and Subbajois are flagged. It is stated that the S.no. which was in possession of one Anantaramabhatta was sold in auction to his brothers Sri Subbajois for arrears of revenue due on the Khane in 1911-12. The Sale is said to be Confirmed by the S.D.O. on 29.6.25. Though the fraudulent nature of the Sale was brought to the notice of the authorities Concerned little no action seems to have been taken to set aside or cancel the Sale in time. The auction purchaser knowing however the questionable nature of the sale has re-gifted the land to the temple on 8.10.29 reserving certain right to himself and his family.

2) The proposed lease of the land in question does not seem to be valid as it does not satisfy the Conditions of the gift. Law Ad. may also be Consulted in the

U.O.No. P 917/33 dated 28.8.33

Law 159/33-34 dt 29-8-33

matter.

3) Forwarded with Compliments to the Govt Advocate for favour of advice.

M Puttaiah
28/8/33.

NOTE.—Conin. Sheet.

WD 70—GBRM—60,000—13-8-37.

File No. of 193 . | General and Revenue Secretariat.

Returned with compliments.

The document of 5-10-1929 though stated to be a Gift-deed is in the nature of a Trust. The Donor stipulates that the management should be with himself and his heirs. The proposed lease would be violating the terms of the Deed and does not, therefore, seem to be legal. If, however, the Donor or his heirs fail to carry on the 'Seva' possession may be taken over by Government as stated in the Deed.

V. Nallayyaswami Esq
Government Advocate.
7-9-1933.

H.

Ro. No. 33/33-34
7-9-33.

GENERAL SECRETARIAT
7 SEP 1933
No.

The sale of this temple land ~~take~~ for arrears of revenue held in 1924-25 and the purchase of it by Subbajois, the brother's son of the temple trustee and the other circumstances in this case clearly show the fraudulent nature of the sale. It was confirmed by the S.D.O on 29-6-25, but there seems to be nothing in law to prevent it being cancelled now by the higher revenue authorities. Instead of doing this a compromise is being effected by means of which this Subbajois ~~marana~~ creates a trust of this land to which he can reasonably claim no title and.

General and Revenue Secretariat | File No. | of 193

Serial No.

is trying by means of this trust to become a permanent lessee of the land.

b) If the trust by this Subba Jois is accepted, it is not legally possible to lease out the lands afresh, as suggested by the D.C. The only course then open is as pointed out by the Govt Advocate, to wait for Subba Jois failing to carry out the seva & then to take possession of the land under the terms of the trust.

b) If however the revenue sale held in 1924-25 & confirmed on 29-6-25 is now cancelled by the proper Revenue authority, in this case perhaps the Rev Comr or the Govt Subba Jois will have no right to the lands which can be thereafter dealt with in the best interests of the temple — For cancellation of this sale, Subba Jois can have no right of action and suits in respect of such matters are beyond the jurisdiction of Civil Courts — (Vide Sec 22 1(c) of the L.R Code).

under the revisional powers vested under sec 217 L.R code

Gen Secy)

8/9/33

a) I agree

II Member

b) The matter may be left to the above officer

8/9

8/9

c) Obd

9/9

9/9

GENERAL SECRETARY
8 SEP. 1933
No.

Second Member's Council
8 SEP. 1933
No. 14-37

NOTE—Contn. Sheet.

WD 70—GBPM—60,000—13-8-31

4

905.

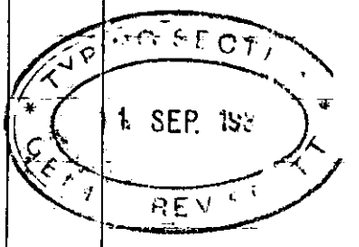
Laws File No. 314 of 1933.

General and Revenue Secretariat

Subj with a dft according

ASD 11/9

Issue pmp 11/9/33



To,

The Mun. Commr

No. P. 1161 dated 13.9.33 forwarding a Copy of the legal opinion in the matter.

File Regd

B. 14/9/33

M C. 13]

905/1
P 833

No. Re 90/31-32
Eve 1 file

OFFICE OF THE MUZRAI COMMISSIONER
IN MYSORE.

Dated, Bangalore, 15th August *193* 3.
18

FROM

Law 34-33-1

S. HIRIANNAIYA, ESQ,. M.A., B.L.,
Muzrai Commissioner in Mysore.

To

.....

The *Secretary to the Government of His Highness*
the Maharaja of Mysore.
G..e..n..e..r..a..l.....*Department.*

GENERAL SECRETARIAT
18 AUG. 1933
No. Law

SIR,

Subject:- Lease - S.No.457/2 gifted to Sri Sakleswaraswami temple - Mandya - Appeal of Subba Jois.

Pop 18/8

In forwarding herewith the vernacular records received with the Mysore District Deputy Commissioner's letter No.H.184/31 dated 30-6-33 (copy enclosed) on the above subject, I have the honor to state as follows:-

The S.No. in question measuring 1 acre in extent and assessed at Rs 4-8-0 was in the khate of one Handi Bomma and in the enjoyment of one Neelasetti. In 1899 the latter gifted the land to the above temple by a registered gift deed dated 11-7-1899. The land thereafter came under the management of one Anantaramabhatta who was the Vichaarakarta of the temple. He allowed the kandayam to fall into arrears and the land was accordingly brought to sale for arrears of revenue due on the khate in 1924-25. It was knocked down to one Subba Jois who was none other than Anantaramabhatta's brother's son for the kandayam dues of Rs9/-. The sale was confirmed by the Sub Division Officer on 29-6-25. Complaints regarding the fraudulent nature of the sale having been made to the local authorities, subsequent correspondence ensued, as a result of which Subba Jois regifted the land to the temple by means of a registered gift deed dated 5-10-1929. The said gift does not however purport to be an absolute conveyance in favour of the temple as the donor has reserved to himself and his family the right of management of the land, subject to the performance of

'Andhakasura Seva' of the deity in the Margasira or Pushya masa of every year, As the terms of the Gift Deed were only conditional and created a perpetual right in favour of the so called grantee and his successors in respect of the land, the Deputy Commissioner on 8-1-31 directed the leasing out of the land to the donor for periods of 5 years at a time and fixing of a scale of expenditure for the seva having regard to the income on the land and kandayam payable therefor. Meanwhile a petition having been received in this office from certain residents of Mandya Town alleging mismanagement of temple affairs the records were perused by this office and ~~others~~ orders were issued to lease out the land on panchasal gutta, with the observation that the legality of leasing the land in contravention of the wishes of the donor may be examined before leasing the lands. The lease sale of the S.No. for 5 years has accordingly been notified by the Amildar, but the legal aspect of the question does not seem to have been examined. Mr. Subba Jois has now petitioned to this office praying that the lease sale of the S.No. may be cancelled on the ground that his title as auction purchaser of the S.No. was confirmed so far back as 1925 by the Sub Division Officer, that as an act of piety he regifted the land to the temple subject to his retaining the management of the land and that the same would be in the best interests of the temple as the income derived from the land would be far less than the expenditure incurred in connection with the seva. As the gift is conditional and the donor has acquired title to the land by a sale of a questionable nature, I request that legal advice may kindly be taken and instructions issued to this office whether there would be no legal impediment to lease out the land for short periods and conduct the seva out of the income realised therefrom.

I have the honor to be,

Sir,

Your most obedient servant,

Muzrai Commissioner.

Letter No.H.184/31 dated 30-6-33 from the Deputy Commissioner, Mysore District, to the Muzrai Commissioner in Mysore.

Lease of S.No.457/2 gifted to Sakleswaraswami Temple - Mandya- appeal of Subba Jois.

With reference to your Official Memorandum No.P.C.30 of 31-32 dated 5/10th May 1933 calling for a report on the petition of Subba Jois protesting against the lease of the above lands by public auction, I have the honor to submit herewith the file of vernacular records and to state that the facts of the case are explained in Mandya Sub Division Officer's report No.A2-266-31 dated 22nd October 1932.

2. The lease of the land in question has been notified by sale by the Amildar as per instructions conveyed in your letter No.P.C.90/31-32 dated 4th January 1933. The petitioner desires that the lease should not be sold by auction but the land allowed to continue in his possession subject to the performance of the stipulated seva.

3. As regards other matters referred to in your letter dated 4th January 1933 action will be taken after the question of lease is decided and the records returned.

"COPY"

For Muzrai Commissioner.

Appendix F G—1]

SUBJECT.....

.....

.....

Section Law

File No. 34-33

Serial No. 2

Diary No. of letter replied to .....

No. P 1281/Sec. (Law Rec)

To

The Hy. Comm^r

General and Revenue Secretariat

( )

the *193* .

Sir.

Date of issue 13/9/33

Signed by Asst Secy

With reference to your letter no. Je 90/31-32 dated 18th Aug 1933 ~~relating~~ regarding the matter of the lease of S. no 459/2 gifted to Sri Sakteswara Swami temple at Mandya by one Subbajois, I am directed to forward herewith a Copy of the legal opinion in the matter, ~~and to request that~~ for further necessary ~~further~~ action. The file ~~may be kindly~~ of papers sent with your letter are ~~to be taken account of~~ herewith returned.

I have etc

Asst Secy

11.9.33

for Secy

Para 47 of the

List of enclosures.....

Copied by.....

ISD 11/9

Examined by.....

5 47

G.R.S. 31] GPB—3,000—1-9 13

No. P 126 / Gen (file of Rec)
Law 34-33-2

From

The Secretary to the Government of His Highness
the Maharaja of Mysore, Genl. and Revenue Depts./

To

The Muzrai Commissioner in Mysore,

B a n g a l o r e.

the 11th September 1933.
13

Genl. and Rev.
Secretariat.

Sir,

With reference to your letter No.J.C.90/31-32 dated 15th August 1933, in the matter of the lease of S. No.457/2 gifted to Sri Sakeswaraswami Temple at Mandya by one Subbajois, I am directed to forward herewith a copy of the legal opinion in the matter, for further necessary action. The file of papers sent with your letter are herewith returned.

I have the honour to be,
S i r,
Your most obedient servant,

pm
for Secretary to Government,
General Department.
15/9

K.M.R.2/11-9.

Legal opinion.

The document of 5-10-1929 though stated to be a Gift-deed is in the nature of a Trust. The Donor stipulates that the management should be with himself and his heirs. The proposed lease would be violating the terms of the Deed and does not, therefore, seem to be legal. If, however, the Donor or his his heirs fail to carry on the "Seva" possession may be taken over by Government as stated in the Deed.

The sale of this temple land for arrears of revenue held in 1924-25 and the purchase of it by Subbajois, the brother's son of the temple trustee and the other circumstances, in this case clearly show the fraudulent nature of the sale. It was confirmed by the Sub Division Officer on 29-6-1925, but there seems to be nothing in law to prevent its being cancelled now by the higher revenue authorities. Instead of doing this, a compromise is being effected by means of which this Subba Jois creates a trust of this land to which he can reasonably claim no title and is trying by means of this trust to become a permanent lessee of the land.

If the trust by this Subba Jois is accepted, it is not legally feasible to leave out the land afresh, as suggested by the Deputy Commissioner. The only course them open is as pointed out by the Government Advocate, to wait for Subba Jois failing to carrying out the Seva and then to take possession of the land under the terms of the trust.

If however the revenue sale held in 1924-25 and confirmed on 29-6-1925 is now cancelled by the proper Revenue authority, in this case perhaps the Revenue Commissioner or the Govern under the revisonal powers vested under Section 217 La

Land Revenue Code Subba Jois will have no right to the land which can thereafter be dealt with in the best interests of the temple. For cancellation of this sale, Subba Jois can have no right of action and suits in respect of such matters are beyond the Jurisdiction of Civil Courts (Vide Section 221 (c) of the Land Revenue Code).

"Copy"

For General Secretary to Government.

K."".R.2/11-9.